THE SCOTTISH OFFICE

Agriculture and Fisheries Department

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A copy of this letter has been sent to the names and addresses on the attached list

14 August 1992

Dear Sir/Madam

INSHORE FISHING (SCOTLAND) ACT 1984
PROHIBITIONS ON FISHING IN SCOTTISH INSHORE WATERS

1. The Inshore Fishing (Scotland) Act 1984 was brought into effect in July 1985. The Act gave the Secretary of State for Scotland general powers to prohibit sea fishing in specified areas within Scottish inshore waters and repealed the large mass of outdated legislation which was then in force. At this time a new Order - the Inshore Fishing (Prohibition of Fishing and Fishing Methods) (Scotland) Order 1985 - was brought into force with the object of introducing a modern, streamlined inshore fishing regime. That Order was then updated with the introduction of the Inshore Fishing (Prohibition of Fishing and Fishing Methods) (Scotland) Order 1989 at the beginning of 1990.

2. The main objectives of both the 1985 and 1989 Orders were to aid conservation by, for example, preventing the use of certain types of fishing gear in some specified areas and to prevent conflicts between different groups of fishermen. In general, however, the Government preferred to allow different groups of fishermen wherever possible to reach voluntary agreements to control fishing and to introduce statutory prohibitions only as a last resort.

3. Three years on from the last review The Scottish Office Agriculture and Fisheries Department believes the time is right for another formal review of the inshore legislation. The attached consultation paper has been drawn up proposing some changes to the conservation regime. In the paper, although the Department's preferred options are, where appropriate, identified, we are willing to consider alternative suggestions, particularly if an alternative can be shown to command general support.

4. Before a new Order can be made under the 1984 Act, consultation with the industry is necessary. This consultation paper is being circulated widely to interested parties and comments on the proposals are invited by 25 September 1992. Any comments should be sent to Denise Barron, The Scottish Office Agriculture and Fisheries Department, Room 134, Pentland House, 47 Robb's Loan, Edinburgh, EH14 1TW. Any comments received will be made available to the public unless the organisation or individual concerned indicates that they wish all, or part, of their reply treated as confidential.

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5. Further copies of the consultation paper can be obtained from the address given above.

Yours faithfully

David Wallace

DAVID WALLACE

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INSHORE FISHING (SCOTLAND) ACT 1984
PROPOSALS FOR AMENDMENT OF THE EXISTING PROHIBITIONS ON FISHING IN SCOTTISH INSHORE WATERS

General

1. Since the coming into force of the Inshore Fishing (prohibition of Fishing Methods) (Scotland) Order in 1989 The Scottish Office Agriculture and Fisheries Department has been keeping the inshore fisheries regime in Scotland under constant review. Almost 3 years on from the introduction of the 1989 Order it is appropriate to consult interested parties on some possible changes to the inshore regime. These are described below with some recommendations made - although in some cases these are industry rather than SOAFD recommendations.

Six month/all year round ban on mobile gear in some Scottish sea lochs

2. The terms of the 1989 Order include a prohibition on the use of mobile gears during the period 1 October-31 March in the Inner Sound including Lochs Torridon, Carron, Kishorn, Duich, Alsh and Hourn; Little Loch Broom and Gruinard Bay; Enard Bay; Eddrachilis Bay; and Loch Laxford. In addition in some of these sea lochs there is an all year round ban on suction dredging (but see paragraphs 8 and 9 below). However the period when the use of mobile gears is permitted (April to September) has led to some conflicts between nephrop creel and trawl fishermen. This has happened even though there is meant to be a voluntary agreement in operation between the different fishermen concerned. As creel fishermen already receive protection for 6 months of the year it can be argued that there is very probably a case for an all year round ban.

3. In addition it is felt that on conservation grounds the case for closing the sea lochs in the winter months in order to protect juvenile herring still stands as they provide a longer term protection to juvenile herring and in particular will be beneficial in the event of a poorer year class entry to the stocks. The conservation of the herring can only be improved by an all year round closure.

4. On balance therefore SOAFD believe that there is a case for extending the prohibition on mobile gears in the sea lochs listed in paragraph 2 to an all year round closure.

Scallop fisheries

5. Certain Scottish industry organisations - in particular the Mallaig and North West Fishermen's Association - have been arguing that restrictions on scallop fishing activity should be introduced. SOAFD has not as yet taken a final view on this issue but believe this consultation exercise should be used to find out what other views there are within the industry on this question.

6. There has been a significant increase in landings in the north east of Scotland in the first half of 1992 with a reduction in the north west. While these trends are not in themselves unusual in the scallop fishery given the practice of fishing grounds until they become uneconomic and then moving on to other areas (thereby allowing the original areas to regenerate), the industry has suggested that the following conservation measures should be introduced (although not all of them could be

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introduced by an Order under the 1984 Act). Among the restrictions proposed are:-

6.1 seasonal closure of over-fished grounds (in particular the Minches in summer);

6.2 weekend ban from April to October inclusive;

6.3 non-transferable restrictive licensing for the scallop fleet;

6.4 horsepower restrictions - fishery limited to vessels below 450 hp;

Some other technical measures suggested are as follows:-

6.5 a maximum aggregate beam length per side of 21' (allowing 8 standard 2'6" dredges per side), and no gear in excess of this may be carried aboard;

6.6 a minimum dredge ring size of $2^3/4$" inner diameter (3" outer diameter);

6.7 top cover to have minimum mesh size of 100mm.

Some of these measures were originally mentioned in the Department's consultation paper 'Scallop Dredging in the 12 mile Inshore Zone' issued last December. The proposals to ban French dredges and to introduce other restrictions are still being considered by Fisheries Departments. As the Department has not formed any firm conclusions on the proposals set out above, views on these would be welcome.

Lobster fishing in Scapa Flow

7. The 1989 Order (Article 8) maintained the 6 month prohibition (April to September) on fishing for lobsters in the Scapa Flow area. This was originally put in place at the request of local fishing interests who were concerned to improve lobster stocks in the area, in combination with the observance of the minimum landing size. The experience over the last 3 years has shown that the prohibition has been difficult to enforce in its present form. Reports have shown that there have been major breaches of this seasonal ban on lobster fishing. However there is now in place a voluntary ban on fishing for velvet crabs during the period June to November in the Scapa Flow area (because of the mortality of crabs in vivier transport systems and higher discards during the summer months). It is therefore worth considering whether the lobster ban should be extended to an overall creel ban (and this would be easier to enforce). Even though this approach would have an effect on the brown crab fishery the balance of advantage seems to be on having an overall creel ban during the period 1 April to 30 September.

Suction dredging

8. The 1989 Order introduced prohibitions on suction dredging in the most sensitive areas around the Scottish coast. Three years of experience of these controls has shown that there has been little pressure for the regime to be reversed. Scientific investigation of the effects of suction dredging on the environment has not led to any firm conclusions but it would appear that the recovery of an area from the environmental

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side effects are likely to be site specific and depend on factors such as depth, exposure, etc.

9. Given the lack of clear evidence it is the intention to keep in place the prohibitions on suction dredging but SOAFD is prepared to consider any requests put to it to amend the restriction currently in place. Column 4 of Schedule 1 of the 1989 Order put in place longer prohibitions on suction dredging (compared to other mobile gears) at Loch Sween; the Inner Sound including Lochs Torridon, Carron, Kishorn, Duich, Alsh and Hourn; Little Loch Broom and Gruinard Bay; Enard Bay; Eddrachilis Bay; Loch Laxford; Stuley Island to Barrahead and Gurney Point; Loch Maddy to Stuley Island; Sound of Harris; and Gallan Head to Aird Barvas (all throughout the year).

Miscellaneous amendments

10. Since the 1989 Order came into operation it has become apparent that it contained a few incorrect references and typographical errors. The present review of the inshore regime is therefore an appropriate occasion to correct these discrepancies. They are as follows:-

10.1 In Schedule 1, at item 27 of column 1 of the 1989 Order, there is a prohibition on the use of mobile gear in the sea area Doolie Ness to Lang Craig. As currently drafted this means that all mobile fishing activity within Montrose Basin is currently prohibited. That clearly was not the intention as there is no static gear fisheries within the Basin itself. It is therefore SOAFD's intention to use the review of this Order to amend item 27 in the 1989 Order by excluding the Montrose Basin area from the period of prohibition of the use of mobile gear.

10.2 In item 27 of Schedule 1 there is also a transposition error which needs to be corrected. The prohibition of use of mobile gear in the one mile area should be from 1 January-31 March and 1 October-31 December in each year while the prohibition in the one half mile area should run from 1 April-30 September of each year.

10.3 In Article 8(2) of the 1989 Order, in the penultimate line, "land" should read "lamb".

10.4 Experience of use of the 1989 Order has shown that there is a lack of consistent use of terminology with respect to the wording used for "the prohibition of fishing with mobile or active gear". In order to overcome these inconsistencies we believe that the heading of Article 3 of the 1989 Order and the main heading of Schedule 1, should be amended to read "prohibitions of fishing with mobile gear".

10.5 There has been some confusion in relation to the prohibition on use of mobile gear at weekends in the Firth of Clyde area (Schedule 1, item 5 of the 1989 Order). Schedule 3, item 1 appears to be at variance with the all year prohibition at weekends as it states that (a) any method of fishing for herring, mackerel and sprats, and (b) fishing for any species of sea fish (except herring, mackerel and sprats) from a fishing boat with an overall length not greater than 70', can take place all year round. The intention of the weekend ban on the use of mobile gear was to reduce conflict

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between sea anglers and commercial fishermen. That reasoning still remains. In order to clarify the confusion it is proposed to add "but subject to column 3 of Schedule 1" after (a) and (b) in Item 1 of Column 4 of Schedule 3.

The Sea Fisheries (Wildlife Conservation) Act 1982

11. The coming into force of the above Act means that when any fisheries measure is being contemplated, Fisheries Ministers have to have regard to the conservation of marine flora and fauna. The proposals in this consultation paper have been considered against that background.

Timetable

12. Comments on the following:-

12.1 Proposed 12 month prohibition on use of mobile gears in some sea lochs (paragraphs 2-4);

12.2 Control on scallop fishing (paragraphs 5-6);

12.3 Seasonal ban on use of creels in Scapa Flow (paragraph 7);

12.4 Suction dredging (paragraphs 8-9); and

12.5 Miscellaneous amendments (paragraph 10)

should be submitted to Denise Barron, SOAFD, Room 134, Pentland House, 47 Robb's Loan, Edinburgh, EH14 1TW by 25 September. This will allow time for the comments to be assessed and any order to be made, laid and come into force from 1 January 1993.

The Scottish Office Agriculture
and Fisheries Department

14 August 1992

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